

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
ILLINOIS COMMERCE COMMISSION)
ON ITS OWN MOTION,)
)
Complainant,)
)
vs.) No. 12-0601
)
NORTHERN ILLINOIS GAS COMPANY)
d/b/a NICOR GAS COMPANY,)
)
Respondent.)
)
Reconciliation of revenues)
collected under Rider 30 with)
the actual costs associated)
with energy efficiency and)
on-bill financing programs.)

Chicago, Illinois
September 12th, 2014

Met, pursuant to notice, at 10:00 a.m.

BEFORE :

MS. HEATHER JORGENSEN, Administrative Law Judge

1 APPEARANCES:

2 ILLINOIS COMMERCE COMMISSION, OFFICE OF GENERAL
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7 -and-

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22 License No. 084-004559

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I N D E X

<u>Witness:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re- direct</u>	<u>Re- cross</u>	<u>By Examiner</u>
James Jerozal	50	53, 87	108	114	

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
Nicor Gas	1.0	119
	1.1	119
	1.2	119
	2.0	52
	2.1	52
	2.2	52
	3.0	119
	3.1	119
	3.2	119
	4.0R2	52
	4.1R	52
	4.2	52
	4.3	52
	5.0	119
	5.1	119
	5.2	119
	5.3	119
	6.0	52
	6.1	52
	6.2	52
AG Cross	1	54
	2	69
	3	81
Staff	1.0 revised confidential/public	121
	2.0 revised confidential/public	121
	3.0 revised confidential/public	121

1 JUDGE JORGENSEN: Pursuant to the direction of
2 the Illinois Commerce Commission, I now call
3 Docket 12-0601. This is the Illinois Commerce
4 Commission on its own motion versus Northern Illinois
5 Gas Company doing business as Nicor Gas Company.

6 This is a reconciliation of revenues
7 collected under Rider 30 with the actual costs
8 associated with energy efficiency and on-bill
9 financing programs.

10 May I have the appearances for the
11 record. We'll begin with Staff.

12 MR. HARVEY: Appearing for the Staff of the
13 Illinois Commerce Commission, Matthew L. Harvey,
14 H-a-r-v-e-y, 160 North LaSalle Street, Suite C-800,
15 Chicago, Illinois 60601, (312) 793-3243.

16 Also present telephonically is Burma
17 C. Jones of the Accounting Department of the
18 Financial Analysis Division of Commission Staff.

19 MS. LUSSEN: On behalf of the People of the
20 State of Illinois, Karen Lussen, 100 West Randolph
21 Street, 11th Floor, Chicago, Illinois 60601.

22 MS. MITCHELL: On behalf of Nicor Gas

1 Company -- on behalf of Nicor Gas Company, Anne
2 Mitchell with the firm Rooney, Rippie & Ratnaswamy,
3 LLP, 350 West Hubbard Street, Suite 600, Chicago,
4 Illinois 60654.

5 JUDGE JORGENSEN: Thank you.

6 I believe we only have one witness
7 today. Is that correct?

8 MR. HARVEY: That's Staff's understanding, your
9 Honor.

10 MS. MITCHELL: Yes, your Honor, my
11 understanding is that the parties only have
12 cross-examination for Mr. James Jerozal.

13 JUDGE JORGENSEN: Okay. Let's proceed.

14 MS. MITCHELL: Okay. Do the oath?

15 JUDGE JORGENSEN: Yes.

16 (Witness sworn.)

17 MS. MITCHELL: Thank you, Judge.

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1 JAMES J. JEROZAL, JR.,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:
4 DIRECT EXAMINATION
5 BY
6 MS. MITCHELL:
7 Q Mr. Jerozal, will you please state your
8 name spelling your last name for the record.
9 A James J. Jerozal, Jr., J-e-r-o-z-a-l.
10 Q By whom and in what position are you
11 employed?
12 A I am employed by Nicor Gas and my position
13 is managing director of energy efficiency.
14 Q Do you have before you your direct
15 testimony filed on e-Docket on April 3rd, 2013, which
16 is identified as Nicor Gas Exhibit 2.0 along with
17 attachments Nicor Gas Exhibits 2.1 and 2.2?
18 A I do.
19 Q Do you also have before you your rebuttal
20 testimony originally filed on e-Docket on
21 February 7th, 2014, and refiled by errata on
22 April 2nd, 2014, which is identified as Nicor Gas

1 Exhibit 4.0R2 along with attachments Nicor Gas
2 Exhibits 4.1R, 4.2 and 4.3?

3 A Yes.

4 Q Do you also have before you your
5 surrebuttal testimony filed on e-Docket on July 18th,
6 2014, which is identified as Nicor Gas Exhibit 6.0
7 along with attachments Nicor Gas Exhibits 6.1 and
8 6.2?

9 A Yes, I do.

10 Q Are you familiar with each of those
11 exhibits?

12 A Yes, I am.

13 Q Were those exhibits prepared by you or
14 under your control?

15 A Yes, they were.

16 Q Do you have any additions or corrections to
17 those exhibits?

18 A I do not.

19 Q If I asked you the same questions that
20 appear in those exhibits, would you give the same
21 answers today?

22 A Yes, I would.

1 Q Is it your intention that these exhibits
2 should constitute your direct, rebuttal and
3 surrebuttal testimonies respectively for submission
4 to the Illinois Commerce Commission in this docket?

5 A Yes.

6 MS. MITCHELL: Your Honor, Nicor Gas moves for
7 admission into evidence Nicor Exhibits 2.0, 2.1, 2.2,
8 4.0R2, 4.1R, 4.2, 4.3, 6.0, 6.1 and 6.2.

9 JUDGE JORGENSEN: Any objections?

10 MR. HARVEY: None from Staff, your Honor.

11 JUDGE JORGENSEN: Hearing none, they will be
12 entered.

13 (Whereupon, Nicor Gas Exhibit
14 Nos. 2.0, 2.1, 2.2, 4.0R2,
15 4.1R, 4.2, 4.3, 6.0, 6.1 and
16 6.2 were admitted into
17 evidence.)

18 MS. MITCHELL: Thank you.

19 Mr. Jerozal is available for
20 cross-examination.

21 MS. LUSSEN: Thank you.

22

1 CROSS-EXAMINATION

2 BY

3 MS. LUSSON:

4 Q Good morning, Mr. Jerozal.

5 A Good morning.

6 Q First, is it correct that the expenses

7 being examined in this proceeding are those for the

8 first plan period?

9 And by "first plan period," that would

10 be comprised of the actual Energy Efficiency Program

11 costs that were incurred and recorded on the books

12 for the Company during the period of December 1st,

13 2009, through May 31st, 2012.

14 A Yes, that's my understanding.

15 Q And so for purposes of this docket, that

16 includes costs that were incurred by the Company

17 prior to the beginning of the Statutory Section 8-104

18 programs, which began on June 1st, 2011?

19 A Yes.

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1 (Whereupon, AG Cross Exhibit
2 No. 1 was marked for
3 identification, as of this
4 date.)
5 BY MS. LUSSON:
6 Q First I'd like to introduce AG Cross
7 Exhibit 1.
8 And AG Cross Exhibit 1 is -- would you
9 agree, is a copy of the Company's response to Staff
10 Data Requests BCJ 1.02, which requested certain
11 sample invoices comprised of a list that is attached
12 as Exhibit 3?
13 MS. MITCHELL: Karen, I'm going to object to
14 the extent that there's no foundation that
15 Mr. Jerozal has seen this document. The -- if you
16 can establish that Mr. Jerozal has seen this exhibit,
17 then we can proceed.
18 MS. LUSSON: Well, I guess my first question
19 was, have you -- okay. Fair enough.
20 BY MS. LUSSON:
21 Q Mr. Jerozal, have you seen this exhibit
22 before?

1 A I'm familiar with the data request to
2 Mr. Martino that you presented here.

3 Q Okay. And -- so I have -- have you had a
4 chance to review the summary invoices that were
5 attached as Confidential Exhibit 4 to this DR
6 response?

7 A I have not reviewed all the invoices that
8 are included in this data request, no.

9 Q Would you accept, subject to check, that
10 these are the invoices that comprise the ones
11 itemized in Staff's request, which is attached as
12 Supplemental Exhibit 3?

13 A I would -- I would agree that if
14 Mr. Martino testified that this -- these were the
15 documents that responded to this data request, that
16 it would be accurate.

17 Q Okay. Now, if you would, could you also
18 turn to your Exhibit 2.2.

19 A Okay.

20 Q And Exhibit 2.2, as I understand it, lists
21 the Plan Year 1 final expenses by program for that
22 time period that we indicated that, I think, we

1 agreed on earlier, which was December 1st, 2009,
2 through May 31st, 2012; is that correct?

3 A Yes.

4 Q So turning your attention to the items
5 listed as Portfolio Costs 1 with the Footnote 1, is
6 it fair to say that these are costs that the company
7 was not able to assign to other specific programs in
8 either the residential or the nonresidential program
9 offerings?

10 A I believe I testified to the definition of
11 portfolio costs. And in that testimony, I describe
12 that these are costs that relate to the overall
13 operation of the plan and for activity shared by all
14 the programs.

15 Q So is it fair to say that those are costs
16 that not -- are not specifically assignable to a
17 single program, but purportedly benefit all of the
18 programs?

19 MS. MITCHELL: I would object to the extent
20 he's asked -- he's answered that question already.

21 JUDGE JORGENSEN: Your response?

22 MS. LUSSON: I think it's just a clarification

1 of his response.

2 JUDGE JORGENSEN: Please answer the question.

3 THE WITNESS: Oh. I'm sorry?

4 JUDGE JORGENSEN: Please answer the question.

5 BY MS. LUSSON:

6 Q So if you'd like, I could repeat --

7 A Yeah, please.

8 Q -- the question.

9 A Please.

10 Q So is it fair to say then that these

11 expenses listed here are costs that could not be

12 specifically assigned to a single business,

13 residential or nonresidential, program?

14 A I would say that they are -- they're not

15 directly related to the programs. They cover the

16 overall operation of the plan and they're shared

17 across the different -- the different segments: the

18 residential, small business and large.

19 Q Okay. And under the heading "Initial

20 Start-Up Costs," when would those costs have been

21 incurred?

22 A I wouldn't know the exact dates that these

1 costs came in, but they certainly occurred prior to
2 launching the programs that began on May 1st, 2011 --
3 or May -- I'm sorry -- let me correct you --
4 June 1st, 2011, when the programs began.

5 Q And by "June 1st, 2011," you mean the
6 Statutory Section 8-104 programs?

7 A Yeah, June 1st, 2011, was when the programs
8 became available to customers to participate in the
9 energy efficiency programs. So these start-up costs
10 were costs associated with being prepared to launch
11 the programs on June 1st, 2011.

12 Q And looking back at AG Cross Exhibit 1, the
13 first couple of invoices, those invoices list the
14 vendor as Bass Management.

15 Do you see those?

16 A Can you refer to the specific invoice?

17 MS. MITCHELL: There's Bates numbers, Karen,
18 maybe.

19 BY MS. LUSSON:

20 Q Bates Nos. 61 and 62, 61 and 62.

21 A I see those invoices.

22 Can you repeat the question?

1 Q Yeah.

2 So would those invoices, the invoices
3 from the vendor Bass Management, would those have
4 fallen under the category of initial start-up costs?

5 A I don't have exact -- I -- I'm not sure
6 exactly where these would have fallen in; but it
7 would be assumed, yes, that they were start-up costs.

8 Q Now, Wisconsin Energy Conservation
9 Corporation was the subcontracted administrator of
10 the programs from June 2009 until June 30th, 2010; is
11 that correct?

12 A The Rider 29 program, yes.

13 Q And then after that point, presumably after
14 that -- around the beginning of the statutory
15 programs in June of 2011, is that when -- was another
16 subcontractor hired to be the program administrator
17 or did essentially your team take over as the program
18 administrators?

19 MS. MITCHELL: I apologize. Karen, did you put
20 a time frame on that?

21 MS. LUSSON: I think I said around the
22 beginning of the statutory programs, beginning around

1 June 2011.

2 THE WITNESS: My recollection is that we
3 maintained WECC -- we maintained WECC as a contractor
4 and they continued to provide portfolio support for
5 the program. As it was launching, we only had two
6 staff at the time.

7 BY MS. LUSSON:

8 Q And then when -- is WECC still a
9 subcontractor as part of the rider programs?

10 MS. MITCHELL: And I'm just going to object to
11 the extent this is beyond the scope of Mr. Jerozal's
12 testimony. He hasn't testified to individualized
13 costs of any particular contractor or subcontractor.

14 MS. LUSSON: Well, Mr. Jerozal is the
15 administrator of the programs or the head person at
16 Nicor overseeing the programs. I'm just trying to
17 understand at what point the subcontractor who ran
18 the prestatutory programs terminated the relationship
19 with Nicor.

20 JUDGE JORGENSEN: To the extent you can answer,
21 please answer it.

22 THE WITNESS: Can you repeat the question?

1 BY MS. LUSSEN:

2 Q Sure.

3 I think my question was, at what point
4 did the contractual relationship with Wisconsin
5 Energy Conservation Corporation terminate or are they
6 still a subcontractor to the rider programs?

7 A We still have a subcontract with them.
8 They do perform some limited activities for us today.

9 Q And comparing the role that Wisconsin
10 Energy Conservation Corp. served as sort of the
11 overseer of the programs prior to the statutory
12 programs, are they still maintaining that role
13 currently as part of the statutory programs?

14 A No.

15 Q And what -- who has taken on that role, if
16 there is any one vendor?

17 A Nicor Gas performs the roles that WECC
18 previously performed in the early year or two.

19 Q And if you recall, do you know when Nicor
20 sort of took over as, for lack of a better term, sort
21 of the administrator of the programs?

22 A It was in our Plan Year 2, maybe going into

1 Plan Year 3, that time frame.

2 Q Can you explain, looking at Row 23 on your
3 Exhibit 2.2, what "management external" references?

4 A That would be costs associated with
5 non-Nicor employees. So it would be consultants and
6 that sort.

7 Q And those -- presumably those consultants,
8 those expenses would, again, be expenses that fall
9 under the -- sort of the broader rubric of
10 administrative costs that can't be assigned to a
11 particular program?

12 A They would be costs that relate to the
13 overall operations of the plan and activities shared
14 by all the programs.

15 Q And what about "management internal," what
16 are those -- what encompasses those costs?

17 A Those, again, would be internal costs. So,
18 for instance, myself or other Nicor Gas employees,
19 for costs that relate to the overall operation of the
20 plan and activities shared by all the programs.

21 Q So those would be essentially salaries,
22 Nicor salaries?

1 A Salaries would be part of that, yes.

2 Q And then under "emerging technologies and
3 technology," would that refer to costs that the
4 companies incur in order to satisfy the portion of
5 Section 8-104, if you're familiar with it, where the
6 Company's directed to invest in breakaway
7 technologies?

8 A Yes.

9 Q And then "evaluation measurement and
10 verification" would be the evaluation costs
11 associated with the entire portfolio?

12 A Yes.

13 Q Now, under "marketing," understanding that
14 these are umbrella -- for lack of a better term,
15 umbrella costs encompassing the entire program, is it
16 correct then that any marketing of particular
17 programs listed above -- that is, residential
18 programs or nonresidential programs -- would fall
19 within the costs of those programs? Or is marketing
20 in general all encompassed within that expense item?

21 A My understanding is that we included --
22 there were umbrella or overarching marketing, which

1 was not specific to a particular program that would
2 be considered portfolio costs or costs, that would be
3 shared across the multiple program offerings, and
4 then there would be unique specific marketing that
5 could occur for a particular program. And my
6 understanding is that may be found in these direct
7 program costs.

8 Q Okay. Now, prior to paying the invoices
9 related to start-up costs that are listed in your
10 Exhibit 2.2, did the company attempt to benchmark
11 administrative start-up costs from other
12 jurisdictions to see if the amounts being charged
13 were reasonable?

14 MS. MITCHELL: I'm going to object as beyond
15 the scope of Mr. Jerozal's testimony.

16 MS. LUSSON: Well, your Honor, I don't think
17 it's beyond the scope of Mr. Jerozal's testimony.
18 Mr. Jerozal oversees the program. Presumably he
19 would have a say in overseeing selection of
20 contractors. And it's just a simple question
21 regarding what sort of analysis the company did to
22 ensure that costs incurred for the start-up of the

1 programs were, in fact, reasonable.

2 JUDGE JORGENSEN: I'm going to allow it.

3 THE WITNESS: So could you repeat the question.

4 MS. LUSSON: Could you please read it back.

5 Thank you.

6 (Whereupon, the record was read
7 as requested.)

8 THE WITNESS: We did not perform a study.

9 There's 1-point -- it looks like there's \$4.7 million
10 in initial start-up costs. So it's -- you know,
11 there's quite a -- there's quite a bit of different
12 expenses associated with those.

13 But the answer to your question is, we
14 didn't do a particular study. We did hire experts --
15 Bass & Company was one of them -- to help guide us on
16 this process.

17 BY MS. LUSSON:

18 Q And did you -- you, yourself, or any member
19 of your team examine or benchmark similar kinds of
20 start-up costs in other Illinois energy efficiency
21 portfolios, for example, those started by ComEd or
22 Ameren?

1 A You know, I recall that we would've -- you
2 know, it's hard to -- I'm trying to recall back to --
3 this would have been 2011 or thereabouts. You know,
4 we certainly discussed with other program
5 implementers. We had a lot of discussions with
6 different stakeholders in that time frame. I can't
7 recall a specific report or study that was performed.

8 Q Does Nicor have any policy or guidance on
9 best practices for appropriate administrative cost
10 percentages within its portfolio?

11 And by "administrative cost," I mean
12 these kinds of umbrella costs, including start-up
13 costs.

14 A Well, we testified, I think, when we -- in
15 the initial docket we testified and we, I think,
16 litigated that point about administrative costs. And
17 my recollection is that the -- the order, the final
18 order that was issued stated something to the effect
19 of there's no, per se, cap on administrative costs,
20 but it's prudently spent dollars.

21 And I'm not aware of anything in our
22 order or our filing that specifically limits the

1 administrative costs to a certain percentage. We
2 don't have a policy, per se, on that at Nicor Gas.

3 Q So, for example, there's no -- there's no
4 internal directives that say at the end of a program,
5 your administrative costs should fall between, say,
6 you know, this percentage and this percentage? Any
7 sort of guidance like that?

8 A No, we have -- our objective was to
9 implement the program to achieve the goals that were
10 ordered in the portfolio, to reach and develop a
11 program that was available for all of our customers.
12 And there's a certain -- and follow the plan and
13 execute it on that plan. And the administrative
14 costs associated with that effort are what we've --
15 what we filed in this proceeding.

16 Q And just to clarify, I think -- which I
17 think you did in your direct testimony, that this --
18 the company is not attesting to the reasonableness of
19 the expenses charged by the Department of Commerce
20 and Economic Opportunity, otherwise known as DCEO?

21 A That's correct.

22 Q So it's correct that neither you or -- nor

1 anyone at Nicor has analyzed the reasonableness of
2 those expenses; is that right?

3 A In due course, we -- we do -- excuse me --
4 we do see invoices and we do pay the invoices that
5 DCEO provides us. We don't have visibility to all
6 the details of all the DCEO invoices. So we have
7 some visibility to what kind of activity is
8 occurring, but not to the level of detail that we
9 would have, for instance, for the invoices that we
10 have for our program.

11 Q And is it correct that, to the extent you
12 know, DCEO, once they've incurred a cost, then they
13 essentially send an invoice to Nicor and say, These
14 are the costs that we've incurred, please forward
15 this amount of revenues to cover those costs from the
16 revenues that are collected from repairs?

17 A Yeah, my recollection and my understanding,
18 not being involved too much in the accounting with
19 DCEO, is that when they incur costs, they provide us
20 the information about that cost. We make sure the
21 math is correct. We make sure that as best we can
22 tell that it's an accurate invoice. And then we

1 would pay the invoice or fund DCEO essentially.

2 Q Okay. We're finished with Exhibit 2.2.

3 I wanted to ask you a few questions
4 related to the Company's incentive compensation
5 policy. And in that regard, I have a cross exhibit.

6 (Whereupon, AG Cross Exhibit
7 No. 2 was marked for
8 identification, as of this
9 date.)

10 BY MS. LUSSEN:

11 Q If you have a chance to look this over,
12 what I've marked as AG Cross Exhibit 2 are the
13 Company's responses to Staff Data Request BCJ 4.04;
14 BCJ 4.05 with an attachment, Exhibit 1; BCJ 4.07.
15 And that's it.

16 Mr. Jerozal, are you familiar with
17 these responses?

18 A Yes.

19 Q And were these responses to those data
20 requests prepared by you or under your supervision?

21 A Yes.

22 MS. LUSSEN: I would just note for the record

1 they are confidential, but I think I can ask my
2 questions without referencing any confidential --
3 specific confidential information. So at this point
4 I don't think there's any need to go in camera.

5 JUDGE JORGENSEN: Okay.

6 BY MS. LUSSEN:

7 Q So looking first at the Company's response
8 to BCJ 4.04, as I understand it, these -- this
9 response lists the amounts of incentive compensation
10 applied by the Company to individual employees in the
11 2010 through 2012 time period?

12 A Yes. This was incentive compensation
13 earned in each of the following years: 2010, 2011
14 and 2012.

15 Q And then looking at the next response and
16 attachment -- that is, BCJ -- the Company's response
17 to BCJ 4.05 and the attachment entitled "2012 Annual
18 Incentive Plan" -- is it correct then that that
19 incentive plan applied to any payouts that occurred
20 in 2012?

21 A Yes, that would be for 2012 that were
22 covered in 2012.

1 Q And in terms of any payouts that occurred
2 in 2010 or 2011, was there a particularly -- I'm
3 sorry. Strike that.

4 Was there a particular Nicor energy
5 efficiency incentive compensation plan tied to those
6 payouts or was it the general company incentive
7 compensation plan?

8 A It was a specific energy efficiency
9 compensation plan.

10 Q And did it -- was it a different plan than
11 that attached as Exhibit 1 to BCJ 4.05 or was it
12 essentially the same?

13 MS. MITCHELL: Karen, do you have a copy of the
14 2011 plan that was produced in discovery that you
15 could show Mr. Jerozal?

16 MS. LUSSON: I do not have that with me. No, I
17 do not.

18 THE WITNESS: My recollection is that it is of
19 similar core -- it's a similar core program or
20 incentive package. There's going to be some specific
21 details each year. They -- they're a little bit
22 different: the values, et cetera.

1 BY MS. LUSSON:

2 Q Okay. And then looking at the Company's
3 response to BCJ 4.07, now, as I understand this
4 response, this shows the incentive compensation
5 metrics that were applied to energy efficiency
6 employee performance in 2011; is that correct?

7 A Yes.

8 Q And then were these same metric goals that
9 are listed in this response to 4.07 the same goals
10 that were applied in 2012 or were they different?

11 A No, they're different.

12 Q And so those goals would be the ones
13 identified in this 2012 Exhibit 1?

14 A That's correct.

15 Q So looking at the 2012 annual incentive
16 plan, which is Exhibit 1 to BCJ 4.05, on the first
17 page it indicates that "performance measures
18 include," and then it says, "Business unit
19 performance goals, which are approved by the Policy
20 Committee; individual performance objectives, which
21 are established in discussions with each manager; and
22 success factors established for each participant's

1 position." Is that correct?

2 MS. MITCHELL: Karen, what page are you reading
3 from?

4 MS. LUSSON: The page -- Bates Page -- Bates
5 stamp 855.

6 MS. MITCHELL: Okay. And I'm just going to
7 note that this document has been designated
8 confidential.

9 THE WITNESS: I'm at that page. Can you refer
10 to which section you were reading?

11 BY MS. LUSSON:

12 Q Are the performance measures those three
13 listed there under the second to the last --
14 actually, the last answer listed on that page where
15 it says "performance measures include"?

16 A I see that.

17 Can you rephrase your question or can
18 you --

19 Q Are those -- my question is, are those the
20 performance measures that guide payouts for 2012
21 incentive payments?

22 A Yes.

1 Q And then looking back on the Bates
2 Page 863, which is the Company's response to 4.07, it
3 says that "the incentive goals and performance
4 measures from the 2011 incentive program are
5 excerpted below."

6 So for 2011, those would be the
7 measures that -- the measures that the companies
8 applied to employee performance in the metric goals?

9 A There -- you know, we're talking about two
10 different plan year pro- -- plan year incentive
11 compensation plans. So the 2011 compensation plan is
12 different from the 2012 compensation plan. And this
13 was excerpted from that 2011 plan.

14 I don't believe that the wording
15 that's included in the 2012 plan that you pointed to
16 at Bates 855 would be found in the 2011 plan, but
17 these would be the key targets that were used for
18 2011.

19 Q Okay. And so, for example, the first
20 metric goal listed there on Page 1 of 2 of 4.07, was
21 that also a goal in 2012 that had -- was evaluated?

22 A Can you specific- -- the -- are you talking

1 about the program design start-up --

2 Q Yes.

3 A -- that item?

4 No, I don't believe so. I think we
5 started it up. That would have been under the 2011
6 plan. And in 2012, we had already star- -- reached
7 start-up. So, no, I don't believe that was reflected
8 in the goals for 2012.

9 Q And how about the second metric goal?

10 A Well, I think the goals for the 2012 plan
11 are outlined on Bates 856.

12 Q And is it then -- were these two items that
13 are listed there as incentive goals on Page 856, were
14 those the primary factors in determining incentive
15 compensation for yourself, for example?

16 A These would have been the -- these would
17 have been a portion of the incentive package that
18 would have applied to eligible employees at that
19 time.

20 Q Including yourself?

21 A Yeah, I'm trying to -- I'm trying to
22 recall. If I was an eligible employee, it would have

1 applied to me, yes.

2 Q Now, in terms of the first metric goal
3 listed on the response to 4.07, would you agree that
4 timely compliance filing for the program plan was
5 required under Section 8-104 of the Act?

6 MS. MITCHELL: Karen -- I'm sorry -- could you
7 repeat your question. I apologize.

8 MS. LUSSON: I'm looking at the first metric
9 goal on the Company's response to 4.07.

10 And my question is, would he --
11 Mr. Jerozal agree that timely compliance filing with
12 the ICC is required under Section 8-104 of the Act.

13 MS. MITCHELL: And I'm just going to object to
14 the extent that the statute speaks for itself.

15 MS. LUSSON: To the extent Mr. Jerozal is
16 familiar with the requirements of the section.

17 JUDGE JORGENSEN: Go ahead and answer.

18 THE WITNESS: The statute has dates for
19 compliance filings and other filings and there are
20 penalties if those dates are not achieved. And one
21 of those includes the -- a timely filing of the
22 program and other things.

1 BY MS. LUSSON:

2 Q Would you also agree that if contracts were
3 not in place by the start of the winter heating
4 season -- that is, vendor contracts -- then that
5 would have impacted the ability of Nicor to provide
6 an Energy Efficiency Program to customers?

7 A Well, the program was a three-year program.
8 So it launched on June 1st, 2011, and ran for three
9 years. And so we have a three-year goal to achieve
10 that.

11 And, obviously, having programs up and
12 running before the winter heating season for the
13 first year was an important objective.

14 Q Is it fair to say that the lion's share of
15 energy savings for the program occurs during the
16 winter heating season?

17 A It depends upon the program.

18 Q And in terms of the totality of annual
19 savings goals, do you find that the Company achieves
20 those primarily as a result of efficiency measures
21 designed to reduce customers' purchase of heating
22 fuel?

1 A Ultimately, yes. I mean, we are -- the
2 objective of the Energy Efficiency Program is to help
3 our customers use less gas.

4 Q And then looking at -- again at Bates
5 Page 863, the column listed "target 100 percent," for
6 the second category where it lists gross therms, is
7 it correct to assume then that the "target
8 100 percent" is the amount that the Company indicated
9 or the Commission approved would be achieved by the
10 Company in a particular year?

11 A Well, the -- I'm not -- that 100 percent
12 target is not -- I'd have to -- I'd have to check to
13 see what the filings said for Plan Year 1, but I
14 don't -- it's not a filed number, if you will.

15 Q To the extent that you're familiar with the
16 target portfolio goal levels in the plan, when it
17 says "100 percent," is that -- is it your
18 understanding that that's an approximation of a
19 year's worth of energy savings as the Company
20 forecasted in its Commission filings?

21 A No, I think that's a target that was based
22 on the circumstances of Plan Year 1, an achievable

1 goal for the Energy Efficiency Department with the
2 knowledge that, you know, we received our final order
3 in that proceeding on May 24th, I believe it was.

4 The programs began on June 1st. So we
5 did not have a final order, but -- you know, less
6 than a week prior to launch of the program. And
7 these goals were reflective of the effort that was
8 needed to launch the programs to get contracts in
9 place, to ramp up the program, and those were --
10 those were challenging efforts because of that
11 delayed order, really only days before the program
12 was launching, and the ability to get contracts in
13 place and up and running.

14 I think, as I recall, maybe half the
15 programs weren't able to launch because we had had
16 uncertainty on the final order that was ultimately
17 issued in May.

18 So these were management --
19 management-approved, reasonable goals for incenting
20 the employees of the group.

21 Q Well, when you say that there was
22 uncertainty about the -- with -- associated with the

1 final order, are you stating that there was -- there
2 were programs -- particular programs at issue that
3 might not have been, in your mind, approved by the
4 Commission?

5 A We -- we did not know the exact goals and
6 we did not know the total budget. At the time when
7 that was being litigated, there was a significant
8 difference between the parties on the total goals and
9 the total budget.

10 And, as I recall, when we received
11 that final order, the change in the budget was,
12 perhaps, 40 percent increased and the goals were
13 significantly increased. And so there was a very
14 significant divergence between the Company's position
15 and the intervenors on that docket. And so there was
16 quite a bit of uncertainty. And because of that
17 uncertainty, we were unable to execute contracts with
18 certain vendors because of the inability to know
19 whether or not it was going to be, you know,
20 literally a more -- maybe 40 percent more of a goal
21 that they'd have versus what maybe the Company
22 position had in that docket.

1 Q It is correct, isn't it, that the Company
2 did not hit its target energy savings goal during the
3 reconciliation time at issue? Isn't it?

4 A There was no reconciliation -- well, there
5 was no goal, per se, per plan year. We have a
6 three-year goal and we had filed a plan that showed
7 three, you know, individual year objectives; but
8 not -- there's no statutory goal per year.

9 Q And did you hit that initial year
10 objective?

11 A No. We achieved 6.8 million therms in that
12 first plan year.

13 (Whereupon, AG Cross Exhibit
14 No. 3 was marked for
15 identification, as of this
16 date.)

17 BY MS. LUSSEN:

18 Q Finally, I'd like to turn your attention to
19 AG Cross Exhibit 3.

20 AG Cross Exhibit 3 is the Company's
21 responses to Staff Data Request BCJ 4.03 and BCJ 6.01
22 and attachments.

1 AG Cross Exhibit 3 is -- appears to be
2 the Company's response to Staff Data Request 4.03 as
3 well as the Company's response to Staff Data Request
4 BCJ 6.01.

5 Do you recognize these documents?

6 A Yes, and I -- I just will note that one is
7 from Mr. Martino.

8 Q Was the first document, BCJ 4.03, prepared
9 by you or under your supervision?

10 A Yes.

11 Q And do you have any reason to -- will you
12 accept, subject to check, that those numbers are, in
13 fact, the numbers that were supplied by Nicor Gas
14 related to Staff's question about payroll expense?

15 A Can you specify which --

16 Q Attachment 1 to the Company's response to
17 6.01.

18 A I know Mr. Martino prepared this response.
19 I don't have the exact knowledge of the numbers in
20 here; but I would assume that if Mr. Martino
21 presented it, it's accurate.

22 Q Would you accept, subject to check, that

1 that's a true and correct copy of the attachment that
2 Mr. Martino sent?

3 A Yes.

4 Q Now, is it correct that you were employed
5 by Nicor Gas at the time of the Company's most recent
6 rate proceeding, Docket 08-0363?

7 A I've been employed at Nicor Gas for
8 12 years, so I believe that covers that time frame,
9 yes.

10 Q And if you know, was Mr. Rowark (phonetic)
11 also employed by Nicor Gas at the time that order was
12 entered in 2009?

13 A Yes.

14 Q And the other individuals that are listed
15 in response to Staff Data Request 4.03 -- John
16 Mizursik (phonetic) -- sorry if I mispronounce
17 that -- Ms. Collins, Mr. Cushman, Ms. Deez,
18 Mr. Macintosh and Ms. Shaw -- were they also
19 employed, if you know, at the time of the Company's
20 most recent rate proceeding?

21 A Mr. Cushman was not a Nicor Gas employee.
22 I believe the rest were -- were all Nicor Gas

1 employees.

2 MS. LUSSON: Thank you, Mr. Jerozal.

3 Your Honor, I have no further
4 questions and would move for the admission of
5 AG Cross Exhibit 1, AG Cross Exhibit 2 and AG Cross
6 Exhibit 3.

7 JUDGE JORGENSEN: Any objections?

8 MS. MITCHELL: Your Honor, the Company has no
9 objection. We would just note that several of these
10 are designated confidential and would like that to be
11 reflected in the record.

12 JUDGE JORGENSEN: Okay. I'll so admit AG Cross
13 Exhibit 1, which is Bates stamp NR 30 000059. I
14 believe that first initial page is not confidential;
15 however, the rest of the Bates stamps are, the rest
16 of AG Cross Exhibit 1 with Bates stamps NR 30 000060
17 through NR 30 00122 (sic) are all marked
18 "confidential."

19 And AG Cross Exhibit 1 will be
20 admitted.

21

22

1 (Whereupon, AG Cross Exhibit
2 No. 1 was admitted into
3 evidence.)

4 JUDGE JORGENSEN: AG Cross Exhibit 2 consists
5 of Bates stamps NR 30 000851 through NR 30 000861,
6 and then NR 30 000863 through NR 30 000864.

7 All of these documents are marked
8 "confidential," I believe -- oh, wait -- some of
9 these documents are marked "confidential." To the
10 extent they are marked "confidential," they will be
11 treated as confidential.

12 (Whereupon, AG Cross Exhibit
13 No. 2 was admitted into
14 evidence.)

15 JUDGE JORGENSEN: I'll also admit AG Cross
16 Exhibit 3, which consists of Bates stamp NR 30 000850
17 and NR 30 000967 and NR 30 000968. 968 is marked
18 "confidential."

19 AG Cross Exhibit 3 is also admitted.

20 (Whereupon, AG Cross Exhibit
21 No. 3 was admitted into
22 evidence.)

1 MS. LUSSON: Thank you, your Honor.
2 MS. MITCHELL: Thank you.
3 JUDGE JORGENSEN: Yes, Mr. Harvey.
4 (Whereupon, the following
5 testimony was marked
6 confidential.)
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